

225923

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

---

**DOCKET NO. NOR 42108**

---

**THE SPRINGFIELD TERMINAL RAILWAY COMPANY  
PETITION FOR DECLARATORY ORDER**

---

**SPRINGFIELD TERMINAL RAILWAY COMPANY'S OBJECTION TO  
FORE RIVER WAREHOUSING & STORAGE  
CO., INC.'S MOTION TO COMPEL & ENLARGE  
SCHEDULING DEADLINES**

---

NOW COMES Springfield Terminal Railway Company ("STRC"), by and through counsel, and objects to Fore River Warehousing & Storage Co., Inc.'s ("Fore River") Motion to Compel Responses to Discovery and Enlarge Scheduling Deadlines on the following grounds:

Fore River's Motion to Compel stems from Interrogatories and Request for Production of Documents which were responded to by STRC back in May 2009. Fore River deposed Michael Bostwick, a STRC representative, on September 1. At no time between May and September did Fore River request additional documents responsive to the Requests for Production which it believed had not been provided. Following STRC's deposition, Fore River requested additional documentation which it maintains was encompassed in its earlier discovery requests.

A review of the categories of additional documents requested reflect that the documents either are irrelevant to the issues before the Surface Transportation Board, previously have been provided to Fore River in STRC's initial response or already would be in the possession of Fore River as part of the normal business dealings between the parties prior to these proceedings. Moreover, on October 7, STRC supplemented its response to Fore River's Request for

Production of Documents and provided additional extensive documentation regarding the delivery of railcars to Fore River, switches requested by Fore River and performed by STRC, and documentation substantiating STRC's calculation of demurrage charges during the pertinent period.

Admittedly the original and supplemental document production did not include records between International Paper/Verso ("IP/Verso") and STRC reflecting the status of railcars either placed or released from storage in transit ("SIT") status by IP/Verso. However, as Mr. Bostwick indicated in his deposition, release of those records requires the consent of IP/Verso who had the sole discretion to place railcars into, and release railcars from, SIT status. IP/Verso is Fore River's customer. IP/Verso uses STRC to ship large quantities of roll paper to and from Fore River. Fore River then unloads the railcars and stores the paper for IP/Verso. Whether IP/Verso elects to ship its product to Fore River directly from its facilities or directs to Fore River railcars which previously had been in SIT status is largely irrelevant to the issues before the STB.

Finally, Fore River seeks the production of a GTI Exempt Boxcar Circular No. 1 and a Side Track Agreement between STRC and Fore River. It is important to recognize that these documents previously would have been provided to Fore River as part of the general business dealings between STRC and Fore River. In fact, Fore River is a party to the Side Track Agreement. Springfield Terminal is attempting to locate the Circular and Side Track Agreement. However, Fore River is equally capable of locating the documents in its own business records.

WHEREFORE, STRC respectfully requests that the Surface Transportation Board deny Fore River's Motion to Compel. To the extent that Fore River's counsel needs a brief additional period to finalize its reply statement, STRC is willing to accommodate Fore River's request.

However, for the reasons stated, STRC objects to a significant modification of the Scheduling Order.

DATED at Saco, Maine this 23rd day of October, 2009.

SMITH ELLIOTT SMITH & GARMEY,

BY 

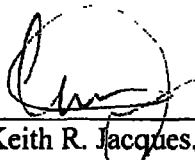
Keith R. Jacques, Esq.  
Attorney for Petitioner  
Springfield Terminal Railway Company

199 Main Street  
P.O. Box 1179  
Saco, ME 04072  
(207) 282-1527

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served copies of the foregoing Springfield Terminal Railway Company's Objection to Fore River's Motion to Compel and Enlarge Scheduling Orders on all parties of record in this proceeding, by furnishing a copy to Daniel L. Rosenthal, Attorney for Fore River, Verrill & Dana, One Portland Square, P.O. Box 586, Portland, ME 04112 via electronic mail this 23rd day of October, 2009, per agreement of the parties to use electronic filing.

Dated: October 23, 2009

  
Keith R. Jacques, Esq.  
Attorney for Petitioner  
Springfield Terminal Railway Company